THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.15208 of 2007

DATED 03.09.2007

Between:
Vakada Appa Rao. .... PETITIONER

Versus

The Commissioner of Civil Supplies,
Andhra Pradesh, Hyderabad and another. .... RESPONDENTS

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.15208 of 2007

ORDER:

Heard the counsel.

2. The Writ Petition is filed for a Writ of a Mandamus declaring the action of the respondent in rejecting the request of the petitioner in C C S Ref.No.PDS.II(KPEF)6056/06, dated 23.12.2006 as illegal, arbitrary and to direct the 1st respondent to grant instalments for payment of amount due by considering the letter dated 20.1.2007 and pass such other suitable orders.

3. The 1st respondent-The Commissioner of Civil Supplies, Andhra Pradesh, Hyderabad, on 23.12.2006 made the following order:

"CCS Ref.No.PDS II(KPEF)6056/06. Dated: 23.12.06.

Sub: Request for permission to pay arrears of kerosene differential Amount in instalments – Not considered – Regarding

Ref: 1. M.s. Vakada Appa Rao, Dealers Indian Oil Co. Ltd., Canal Road,
Palakol, West Godavari District, dt.22.8.2006 & 30.11.2006.
2. CCS Ref.No.PDS II(KPEF)/6056/06, dated 11.09.06, 18.10.06 and 10.11.06.
3. Representation of Vakada Appa Rao, Dealers, Indian Oil Co., Ltd.,

Palakol, West Godavari District, dated 30.11.2006.

4. CCS Ref.No.PDS II(KPEF)/6056/06, dated 15.12.2006.

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In the reference 1st and 3rd cited, Sri Vakada Appa Rao, Dealers Indian Oil Co. Ltd., Palakol, West Godavari District has informed that the Collector has not intimated about the differential amount for a year to them and they are unable to pay kerosene differential amount at a time in bulk because of their moderate financial status and they owed lakhs of rupees arrears to Government. Hence they sought permission to pay Rs.10,000/- every month

In the reference 2nd cited, the Collector (CS), West Godavari District has been requested to offer his remarks in this regard for taking necessary action. Report is still awaited from him

Instructions have been issued to all the Joint Collectors to the effect that collection of arrears of differential amount due from the wholesale dealers have to be effected immediately and credited to the Kerosene Price Equalisation Fund by 31.12.2006. This is the Government money and withholding of amount of the Government amount to temporary defalcation of Government funds since the same amounts have already been collected from the F.P. Shop dealers/retailers.

Therefore, Sri Vakada Appara Rao is hereby informed that his request for payment of differential amount due to be credited to Kerosene Price Equalisation Fund in instalments cannot be considered and he is directed to remit the entire differential amount due to the Government by 31.12.2006.

Sd/ Bhanwar Lal

Commissioner of Civil Supplies."

4. The petitioner made an application to the 1st respondent on 22.8.2006 and on 30.11.2006 to the 2nd respondent stating that he cannot pay the amount as demanded at a time. The grievance of the petitioner is that the 1st respondent instead of favourably considering the request of the petitioner, on 23.12.2006 made the order already specified supra. The learned counsel for the petitioner also placed

before this Court Roc. CS 5/40/2007, dated 11.8.2007, wherein the District Collector issued the following direction:

> "The CCS has directed to take action against defaulting dealers for non-remitting the amounts to KPEF. Therefore, all the above dealers are hereby directed to remit the above amounts immediately and failure in which the supply of kerosene will be stopped from September, 2007 onwards to the defaulting dealers".

5. As can be seen from the averments made in paragraphs 2 to 5 of the affidavit filed in support of the Writ Petition, a request is being made by the petitioner praying for granting of instalments on the ground that the petitioner is unable to pay the amount demanded in lumpsum. It is no doubt true that it is within the discretion of the authority whether to grant or not to pay the demanded amount in instalments, and this Court is not inclined to express any opinion in this regard. However, it is stated that the petitioner on 20.1.2007 made a representation. In view of the facts and circumstances, the 1st respondent to dispose of the representation dated 20.1.2007 at an early date preferably within a period of four (04) weeks from the date of receipt of a copy of this order and till the representation is considered and appropriate orders are passed, no further coercive steps to be taken in this regard.

6. The Writ Petition is accordingly disposed of with the above direction. There shall be no order as to costs.

03.09.2007

SSR

ISSUE ORDER COPY IN THREE (03) DAYS.

(BO)